The opinion in support of the decision being entered today was <u>not</u> written for publication and is <u>not</u> binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

<u>Ex parte</u> THIRU SRINIVASAN

Appeal No. 2003-1618
Application 09/471,696[1]

ON BRIEF

Before JERRY SMITH, BARRETT, and FLEMING, <u>Administrative Patent Judges</u>.

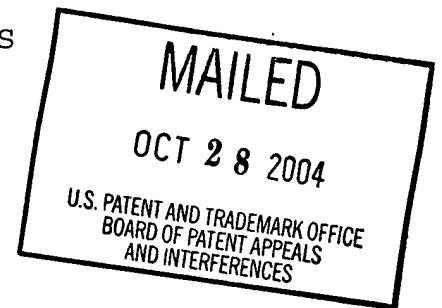BARRETT, <u>Administrative Patent Judge</u>.

<u>DECISION ON APPEAL</u>

This is a decision on appeal under 35 U.S.C. § 134 from the final rejection of claims 1-9, 11-19, and 21-23.

We reverse.

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[1] Application for patent filed December 23, 1999, entitled "Method and System for Auctioning a Product on a Computer Network."

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BACKGROUND

The invention relates to auctioning a product on a computer network which includes an auction site and a scan site. Buyers place a product identifier indicative of a product desired by the buyer on the scan site. The auction site has a sale product identifier indicative of a product for sale by a seller. The auction site is monitored by the scan site to determine whether a product desired by the buyer is for sale and, if so, the buyer is notified. The scan site may be monitored by the auction site for the products desired by the buyers so that sellers know what products are in demand.

Claim 1 is reproduced below.

1. A method of auctioning a product on a computer network having an auction site and a scan site, wherein the auction site has a sale product identifier indicative of a product for sale by a seller, the method comprising:

placing a desired product identifier on the scan site of the computer network, the desired product identifier indicative of a product desired by the buyer;

monitoring the auction site with the scan site;

comparing the desired product identifier on the scan site with the sale product identifier on the auction site;

determining from the comparison between the desired product identifier and the sale product identifier whether the product desired by the buyer is for sale on the auction site by the seller; and

monitoring the scan site with the auction site to identify the desired product identifier place on the scan site in order to enable the seller to determine the product desired by the buyer.

THE REFERENCES

The examiner relies on the following references:

McGovern et al. (McGovern) 5,978,768   November 2, 1999

www.biddersedge.com, "Bidder's Edge - Your Auction Guide," archived from December 12, 1998 ("Bidder's Edge").

THE REJECTION

Claims 1-9, 11-19, and 21-23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bidder's Edge and McGovern.

We refer to the final rejection (Paper No. 5) (pages referred to as "FR__") and the examiner's answer (Paper No. 10) for a statement of the examiner's rejection, and to the appeal brief (Paper No. 9) (pages referred to as "Br__") and reply brief (Paper No. 11) (pages referred to as "RBr__") for a statement of appellant's arguments thereagainst.

OPINION

The examiner finds (FR2) that Bidder's Edge discloses the subject matter of claim 1 except for the last limitation of "monitoring the scan site with the auction site to identify the desired product identifier placed on the scan site in order to enable the seller to determine the product desired by the buyer." Appellant agrees and acknowledges that the Bidder's Edge Web site containing a database is similar to the claimed scan site and the auction Web site of Bidder's Edge is similar to the claimed auction site (RBr2). The examiner finds that McGovern teaches a

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job search system where companies (sellers) input jobs (products)

that they have available; job seekers (buyers) search for jobs

they are interested in; and companies (sellers) search for jobs

sought by job seekers (buyers) to determine which jobs (products)

are desired by job seekers (buyers), referring to column 18,

lines 39-51 (FR3). The examiner concludes that it would have

been obvious to one of ordinary skill in the art to search the

desired product database of Bidder's Edge as taught by McGovern

in order for sellers to determine what buyers want (FR3).

Appellant argues that McGovern teaches that companies

(sellers) can search from a Web site (i.e., an auction site) a

database (i.e., a scan site) having jobs (products) desired by

job seekers (buyers) to determine which jobs (products) are

desired by the job seekers (buyers) (Br8). As a result, the

hiring contact directly monitors the database of jobs from the

Web site using a keyword search. It is argued that, assuming

that it would have been obvious to combine the search system of

McGovern to search the auction system of Bidder's Edge, McGovern

teaches a configuration where the seller would directly monitor

the product database of Bidder's Edge by performing a manual

keyword search, whereas the claims require "monitoring the scan

site <u>with the auction site</u>" (Br9).

The examiner responds that McGovern teaches a two-way search

where job seekers can search a first database of available jobs

and companies can search a second database of resumes and this two-way search feature would have suggested allowing the auction sites to search the database of Bidder's Edge in order to optimize the matching of buyers and sellers (EA4). The examiner asserts that the references suggest searching or monitoring the database of Bidder's Edge from the auction sites, rather than interacting directly with the database (EA4). The examiner states that the limitation of "monitoring" does not require an automatic process (EA5).

Appellant replies that the claims require the auction site (as opposed to the seller) monitoring the scan site to identify the desired product identifier in order to enable the seller to determine the product desired by the buyer and, as a result, solves the problem of sellers having to monitor various scan sites to determine when a product is desired by a buyer (RBr5). It is argued that McGovern allows company hiring contacts to search resumes in the database of the company computer, but does not allow searching from the Web site the database of jobs as stated by the examiner (RBr6). Appellant argues that "monitoring the scan site with the auction site" requires the auction site to do the monitoring as opposed to a company hiring contact performing a keyword search on a database stored in the company computer (RBr6-7).

Although appellant's arguments are not considered particularly strong, we disagree with the examiner's reading of McGovern. McGovern is not really two-way searching, as stated. It is true that the job seeker (buyer) can enter information pertaining to a job (product) the job seeker is interested in and the remote site program will automatically compare, on a daily basis, the entered position information with the information pertaining to positions uploaded from the companies (sellers) and notifies the job seeker (buyer) is a match is found (col. 15, line 59 to col. 16, line 16), where the job database is analogous to the "auction site." This is analogous to the claimed step of "monitoring the auction site with the scan site." The job seeker (buyer) can then hyperlink to the company's Web site or can forward his or her resume by e-mail, facsimile, or regular mail (col. 16, lines 16-25). The resumes for a particular job advertised by the company are managed by the company computer and can be searched by the hiring contact (col. 16, line 55 to col. 18, line 55). However, a company can only search resumes that it has received for a particular advertised position. The remote site which compares job seekers resumes to advertised jobs does not store a list of jobs which are sought by applicant. That is, there is no suggestion in McGovern that companies (sellers) search a database of jobs (products) that might desired by job seekers (buyers), but for which the company has not

advertised. Accordingly, McGovern does not involve two-way searching and does not suggest "monitoring the scan site with the auction site to identify the desired product identifier place on the scan site in order to enable the seller to determine the product desired by the buyer." Absent any evidence of a buyer driven auction or system, i.e., a system in which the seller looks for items wanted by a buyer, we conclude that the examiner has failed to establish a <u>prima facie</u> case of obviousness. The rejection of claims 1-9, 11-19, and 21-23 is reversed.

<p style="text-align:center;"><u>REVERSED</u></p>

JERRY SMITH   )
Administrative Patent Judge   )
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LEE E. BARRETT   )   BOARD OF PATENT
Administrative Patent Judge   )   APPEALS
)   AND
)   INTERFERENCES
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